



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

GFI Bedford, LLC
133 Pearl Street Suite 400
Boston, MA 02110

Re: 43 Constitution Drive
Bedford, NH
UST #0-114631

**ADMINISTRATIVE ORDER
No. WMD 05-07**

October 19, 2005

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to GFI Bedford, LLC pursuant to RSA 146-C. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. GFI Bedford, LLC ("GFI Bedford") is a corporation registered to do business in New Hampshire having a principal office address of 133 Pearl Street Suite 400, Boston, MA 02110.

C. STATEMENTS OF FACTS AND LAW

1. RSA 146-C authorizes the Department of Environmental Services ("DES") to regulate the installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:9, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 1401 to set forth the requirements for underground storage facilities by "establishing criteria for registration and permitting, and standards for design, installation, operation, maintenance, and monitoring of such facilities."
2. GFI Bedford is the facility owner of one underground storage tank ("UST") at the GFI Bedford, LLC facility ("the Facility"), further identified as UST #0-114631, located on real property at 43 Constitution Drive, Bedford, NH ("the Property").
3. The UST system is subject to the requirements of RSA 146-C and Env-Wm 1401.
4. On November 9, 2004, a Division inspector conducted a compliance inspection at the Facility and noted compliance deficiencies which were identified in a report (the "Report") issued to the Facility representative at the time of the inspection.

5. The Report notified the Facility that compliance was to be achieved within 30 days of the date of the inspection and verification of compliance submitted to the Division within 45 days of the date of the inspection. Acknowledgement of receipt of the Report was signed by Steve Duncanson on behalf of the Facility.
6. The Report also included a UST Facility Summary of Deficiencies identified at the time of the inspection. Among those deficiencies identified, the Division was not notified that the following were corrected within 45 days after the inspection was performed:
 - a. The permit fee and certificate of compliance has not been submitted to DES;
 - b. The permit was not posted;
 - c. Inventory control by annual tank gauging was not conducted;
 - d. The overfill protection device for the 10,000-gallon #2 fuel oil UST (Tank 1) was not properly installed;
 - e. Tank 1 is not protected from corrosion;
 - f. The sacrificial anode system for Tank 1 was not tested within 6 months of installation and every 3 years thereafter by a qualified cathodic protection tester; and
 - g. The piping for Tank 1 is not corrosion protected.
7. Env-Wm 1401.07(b) requires the owner of an underground storage facility to apply to the Division for a permit to operate by providing the permit fee required by RSA 146-C:4 and a certification of compliance signed by the owner which states that the facility is in compliance with all applicable statutory and regulatory requirements.
8. Env-Wm 1401.07(c) requires a permit to be displayed so it is visible and permanently affixed on the facility premises.
9. Env-Wm 1401.11(f) requires on-premise-use heating oil systems without secondary containment and leak monitoring for both tank and piping to perform inventory control by annual tank gauging.
10. Env-Wm 1401.25(d) defines the manner in which the overfill protection devices shall be installed.
11. Env-Wm 1401.32(b) requires all existing steel underground storage tanks to be protected from corrosion no later than December 22, 1998.
12. Env-Wm 1401.32(c) requires sacrificial anode systems to be tested within 6 months of installation and every 3 years thereafter by a qualified cathodic protection tester.
13. Env-Wm 1401.33(b) requires corrosion protection to be installed on regulated piping prior to December 22, 1998.

D. DETERMINATION OF VIOLATIONS

1. GFI Bedford has violated Env-Wm 1401.07(b) by failing to apply to the Division for a permit to operate
2. GFI Bedford has violated Env-Wm 1401.07(c) by failing to display and permanently affix a permit at the Facility.
3. GFI Bedford has violated Env-Wm 1401.11(f) by failing to perform inventory control by annual tank gauging.
4. GFI Bedford has violated Env-Wm 1401.25(d) by failing to properly install the overfill protection device on Tank 1.
5. GFI Bedford has violated Env-Wm 1401.32(b) by failing to protect the tank from corrosion.
6. GFI Bedford has violated Env-Wm 1401.32(c) by failing to test the sacrificial anode system within 6 months of installation and every three years thereafter by a qualified cathodic protection tester.
7. GFI Bedford has violated Env-Wm 1401.33(b) by failing to protect the piping from corrosion.

E. ORDER

Based on the above findings, DES hereby orders GFI Bedford as follows:

1. Within 45 days of the date of this Administrative Order, documentation showing that corrective measures have been taken for all of the violations listed above must be submitted to the Division or the UST system must be permanently closed in accordance with Env-Wm 1401.18 and a closure report must be submitted to the Division within 30 days of the date the samples to determine the presence of any contamination are taken.
2. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

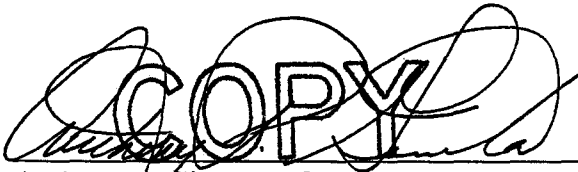
Lynn A. Woodard, P.E., Supervisor, Oil Compliance Section
DES Waste Management Division
P.O. Box 95
Concord, NH 03302-0095
Fax: (603) 271-2181
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F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve GFI Bedford of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 146-C:10 provides for administrative fines and civil penalties, for the violations noted in this Order, as well as for failing to comply with the Order itself. DES will continue to monitor GFI Bedford's compliance with applicable requirements and will take appropriate action if additional violations are discovered.


Anthony P. Giunta, P.G., Director
Waste Management Division


Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7000 1670 0000 0586 7881

cc: Gretchen R. Hamel, Legal Unit Administrator ✓
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
James Martin, DES Public Information Officer
Lynn A. Woodard, P.E., WMD UST Supervisor
Thomas R. Beaulieu, WMD UST Chief
cc: Law Offices of Daniel W. Sklar, P.C., c/o Nixon Peabody LLP, 889 Elm Street, Manchester 03101 (registered agent)
Town of Haverhill Health Officer